

**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES**

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Mortgage Broker Practices Act of Washington by:

Avalon Home Loan Corp., dba Nationwide Home
Loan Co., and Robert H. Bartell, Designated Broker,

Respondents.

NO. C-03-017-03-SC01

STATEMENT OF CHARGES
and NOTICE OF INTENT TO REVOKE
LICENSE, COLLECT PAST DUE
ASSESSMENTS AND IMPOSE MONETARY
FINE

INTRODUCTION

Pursuant to RCW 19.146.220 and RCW 19.146.223, the Director of the Department of Financial Institutions of the State of Washington ("Director") is responsible for the administration of chapter 19.146 RCW, the Mortgage Broker Practices Act ("Act"). The referenced statutes (RCW) and rules (WAC) are attached, in pertinent part. After having conducted an investigation, and based upon the facts available as of January 29, 2003, the Director institutes this proceeding and finds as follows:

I. FACTS

1. Respondents:

A. Avalon Home Loan Corp., doing business as Nationwide Home Loan Co., is licensed to conduct the business of a mortgage broker at:

1725 North East 24th Street
Renton, Washington 98056

B. Robert H. Bartell was named designated broker on August 19, 1998, and has continued as designated broker to date.

2. **License:** The Department of Financial Institutions (“Department”) issued a license to Avalon Home Loan Corp. as a mortgage broker on August 19, 1998.

3. **Annual Assessment:** An annual assessment fee is due to the Department each year, no later than the last business day of August 2001 and 2002. Respondents last paid the annual assessment fee in 2000.

4. **Issuance of Directive:** On October 17, 2002, the Department issued a directive to Respondents requiring that Respondents pay the annual assessment fee. By note presumably from Respondents received January 9, 2003, Respondents indicated the assessment “should be handled shortly.” To date, Respondents have failed to pay the annual assessment fees due.

II. GROUNDS FOR ENTRY OF ORDER

1. Requirement to Pay Required Fees: Pursuant to RCW 19.146.228 and WAC 208-660-060(3), each mortgage broker shall pay to the Director an annual assessment fee no later than the last business day of the month in which the anniversary date of the issuance of the mortgage broker's license occurs.

2. Authority to Charge Examination and Investigation Fee: Pursuant to RCW 19.146.228(2), and WAC 208-660-060(2), upon completion of any examination of the books and records of a licensee, the Department will furnish to the licensee a billing to cover the cost of the examination. The examination charge will be calculated at the rate of forty-six dollars and twenty-six cents (\$46.26) per hour that each staff person devoted to the examination.

3. Authority to Revoke License: Pursuant to RCW 19.146.220(2)(b)(ii) and (iii), the Director may revoke a license for failure to pay a fee required by the Director and failure to comply with a directive of the Director.

4. Authority to Impose Fines: Pursuant to RCW 19.146.220(c)(ii), the Director may impose fines for failure to comply with a directive of the Director.

III. NOTICE OF INTENT TO ENTER ORDER

Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth in the above Facts and Grounds for Entry of Order constitute a basis for the entry of an Order under RCW 19.146.220,

1 which authorizes the Director to enter an Order against a person subject to the Act. Therefore, it is the Director's
2 intention to ORDER that:

- 3 1. Avalon Home Loan Corp.'s license to conduct the business of mortgage broker be revoked;
- 4 2. Respondents pay the cumulative annual assessments due through 2003 which totals \$1,013.95;
- 5 3. Respondent pay an examination fee of \$231.30, calculated at \$46.26 per hour for each staff hour devoted
6 to the investigation (5 hours); and
- 7 4. Respondents pay a fine of \$3,000 calculated at \$100.00 per day for 30 days.

8 **V. AUTHORITY AND PROCEDURE**

9 This Statement of Charges and Notice is entered pursuant to the provisions of RCW.19.146.220, RCW
10 19.146.221, and RCW 19.146.230, and is subject to the provisions of chapter 34.05 RCW (the Administrative
11 Procedure Act). Respondents may make a written request for a hearing as set forth in the NOTICE OF
12 OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this order.

13 Dated this 9th day of January, 2003.

15 /S/
16 MARK THOMSON
17 DIRECTOR
DIVISION OF CONSUMER SERVICES
DEPARTMENT OF FINANCIAL INSTITUTIONS

18 Reviewed by:

19 /S/
20 Chuck Cross, Enforcement Chief

RCW 19.146.220 Director – Powers and duties – Violations as separate violations – Rules. (1) The director shall enforce all laws and rules relating to the licensing of mortgage brokers, grant or deny licenses to mortgage brokers, and hold hearings.

(2) The director may impose the following sanctions:

(b) Suspend or revoke licenses for:

(i) False statements or omission of material information on the application that, if known, would have allowed the director to deny the application for the original license;

(ii) Failure to pay a fee required by the director or maintain the required bond;

(iii) Failure to comply with any directive or order of the director; or

(c) Impose fines on the licensee, employee or loan originator of the licensee, or other person subject to this chapter for:

...
(ii) Failure to comply with any directive or order of the director;

[1997 c 106 § 12; 1997 c 58 § 879; 1996 c 103 § 1; 1994 c 33 § 12; 1993 c 468 § 8.]

RCW 19.146.221 Action by director – Hearing – Sanction. The director may, at his or her discretion and as provided for in *RCW 19.146.220(2), take any action specified in RCW 19.146.220(1). If the person subject to such action does not appear in person or by counsel at the time and place designated for any administrative hearing that may be held on the action then the person shall be deemed to consent to the action. If the person subject to the action consents, or if after hearing the director finds by a preponderance of the evidence that any grounds for sanctions under this chapter exist, then the director may impose any sanction authorized by this chapter. [1994 c 33 § 13.]

RCW 19.146.223 Director – Administration and interpretation. The director shall have the power and broad administrative discretion to administer and interpret the provisions of this chapter to fulfill the intent of the legislature as expressed in RCW 19.146.005. [1994 c 33 § 2.]

RCW 19.146.228 Fees – Rules – Exception. The director shall establish fees by rule in accordance with RCW 43.24.086 sufficient to cover, but not exceed, the costs of administering this chapter. These fees may include:

(1) An annual assessment paid by each licensee on or before a date specified by rule;

(2) An investigation fee to cover the costs of any investigation of the books and records of a licensee or other person subject to this chapter;

[1997 c 106 § 13; 1994 c 33 § 9.]

RCW 19.146.230 Administrative procedure act application. The proceedings for denying license applications, issuing cease and desist orders, suspending or revoking licenses, and imposing civil penalties or other remedies issued pursuant to this chapter and any appeal therefrom or review thereof shall be governed by the provisions of the administrative procedure act, chapter 34.05 RCW. [1994 c 33 § 16; 1993 c 468 § 10.]

WAC 208-660-060 Department's fees and assessments.

...
(2) Upon completion of any examination of the books and records of a licensee, the department will furnish to the licensee a billing to cover the cost of the examination. The examination charge will be calculated at the rate of \$46.26 per hour that each staff person devoted to the examination. The examination billing will be paid by the licensee promptly upon receipt. Licensees that were issued licenses prior to March 21, 1994, have prepaid in their initial license fee the cost of the first compliance examination of the licensee conducted by the department during the first two years after the date of issuance of the license.

(3) Each licensee shall pay to the director an annual assessment of \$513.95 for each license, and \$513.95 for each branch office certificate. The annual assessment(s) will be due no later than the last business day of the month in which the anniversary date of the issuance of the broker's license occurs.

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APPLICATION FOR HEARING

DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
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Olympia, WA 98504-1200
(360) 902-8795